

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-00172
Petitioners: Michael A. Toth & Jennalee G. Teliszczak
Respondent: Department of Local Government Finance
Parcel #: 007-26-33-0166-0019
Assessment Year: 2002

The Indiana Board of Tax Review (the "Board") issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held on January 16, 2004. The Department of Local Government Finance (the "DLGF") determined that the property tax assessment for the subject property was \$222,600 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 30, 2004.
3. The Board issued a notice of hearing to the parties dated September 24, 2004.
4. Special Master S. Sue Mayes held the hearing in Crown Point on November 3, 2004.

Facts

5. The subject property is located at 64 Glendale Park, Hammond.
6. The subject property is a two-story colonial style, brick and stucco dwelling on a lot measuring 101 by 150 feet.
7. The Special Master did not conduct an on-site visit of the property.
8. The assessed value of subject property as determined by the DLGF:
Land \$37,300 Improvements \$185,300 Total \$222,600.
9. The assessed value requested by Petitioners:
Land \$37,300 Improvements \$137,700 Total \$175,000.

10. The following persons were present and sworn as witnesses at the hearing:
For Petitioners — Michael Toth, Homeowner
and Jennalee G. Teliszczak,
For Respondent — Stephen H. Yoher, Hearing Officer.

Issues

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:
- a) The subject property was purchased on February 7, 1996, for \$135,000. *Petitioner Exhibits 11, 17; Toth testimony.*
 - b) From 1996 to the valuation date of 1999, the property values in central and north Hammond declined. *Id.*
12. Summary of Respondent's contentions in support of the assessment:
- a) Giving consideration to the sale price demonstrated by the closing statement for the subject property, the subject property is overvalued. *Yohler testimony.*
 - b) The value for the subject property should be \$175,000. *Id.*

Record

13. The official record for this matter is made up of the following:
- a) The Petition,
 - b) The tape recording of the hearing labeled Lake County 483,
 - c) Exhibits:
 - Petitioner Exhibit 1: Form 139L Petition,
 - Petitioner Exhibit 2: Summary of Petitioner's Arguments,
 - Petitioner Exhibit 3: Outline of evidence explaining relevance,
 - Petitioner Exhibit 4: The property record card ("PRC") for the subject property,
 - Petitioner Exhibit 5: The PRC for the property located at 51 Glendale with MLS and assessment information,
 - Petitioner Exhibit 6: The PRC for the property located at 60 Glendale with MLS and assessment information,
 - Petitioner Exhibit 7: The PRC for the property located at 50 Glendale with MLS and assessment information,
 - Petitioner Exhibit 8: The PRC for the property located at 41 Glendale with MLS and assessment information,
 - Petitioner Exhibit 9: Photographs of the subject property,

Petitioner Exhibit 10: Receipts and partial estimates for repairs to the subject property,
Petitioner Exhibit 11: Property sales information for the years 1996, 1999, and 2003,
Petitioner Exhibit 12: The Residential Agent Detail Report for 6304 Forest,
Petitioner Exhibit 13: The Residential Agent Detail Report for 7126 Forest,
Petitioner Exhibit 14: The sale listing for 7241 Forest,
Petitioner Exhibit 15: The sale listing for 40 Lawndale,
Petitioner Exhibit 16: The sale listing for 25 Indi-Illi,
Petitioner Exhibit 17: The Petitioner's conclusions,
Respondent Exhibit 1: Form 139L,
Respondent Exhibit 2: Subject PRC,
Respondent Exhibit 3: Subject photograph,
Respondent Exhibit 4: Sales comparison,
Board Exhibit A: Form 139L,
Board Exhibit B: Notice of Hearing,
Board Exhibit C: Sign in Sheet,

d) These Findings and Conclusions.

Analysis

14. The most applicable laws are:
- a) A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Board of Tax Commissioners*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
 - b) In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Wash. Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer’s duty to walk the Indiana Board . . . through every element of the analysis”).
 - c) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s evidence. *Id: Meridian Towers*, 805 N.E.2d at 479.
15. There was sufficient evidence to support the Petitioners’ contentions. This conclusion was arrived at because the undisputed testimony shows that the subject property is

overvalued at the current assessment of \$222,600. The correct assessed value for the subject property is \$175,000. *Toth testimony; Yohler testimony.*

Conclusion

16. The Petitioners made a prima facie case. The Respondent agreed that the current value of the subject property is overstated and should be \$175,000. The Board finds in favor of the Petitioners.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.